

Message Text

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PAGE 01 USUN N 04433 030254Z

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ACTION L-03

INFO OCT-01 IO-14 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10

NSAE-00 NSC-10 PA-04 RSC-01 PRS-01 SPC-03 SS-20

USIA-15 ACDA-19 CPR-02 SY-10 USSS-00 SCA-01 AF-10

ARA-16 EA-11 EUR-25 NEA-10 DRC-01 /197 W

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TO SECSTATE WASHDC 750

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EO 11652: N/A

TAGS: UNGA, PINS

SUBJECT: UNGA--LEGAL COMMITTEE-PROTECTION OF DIPLOMATS

1. AT DRAFTING COMMITTEE MEETINGS NOV 2, COMMITTEE CONSIDERED ARTICLES 2A (ON JURISDICTION) , 12(DISPUTE SETTLEMENT), AND 2(DEFINITION OF CRIME.)
2. COMMITTEE ADOPTED ARTICLE 2A WITHOUT CHANGE AND DECIDED TO PLACE IT AS SEPARATE ARTICLE BETWEEN ARTICLES 2 AND 3.

3. COMMITTEE NEXT CONSIDERED ARTICLE 12. US PROPOSED DRAFTING CHANGES TO ALTERNATIVE B OF ILC TEXT BASED ON TECHNICAL RESIVSIONS CONTAINED IN POSITION PAPER, USSR OPPOSED ANY CHANGES IN LANGUAGE OF ALTERNATIVE B. TUNISIA READY TO CONSIDER CHANGES, BUT REQUESTED FRENCH TEXT OF PAPPOSALS, (US HAD CIRCULATED DURING AM INFORMAL ENGLISH DOCUMENT CONTAINING PROPOSALS FOR DRAFTING CHANGES.) MEXICO APPRECIATED US EFFORT AND ALSO REQUESTED TRANSLATION. MALI SAID IT READY TO CONSIDER DRAFTING CHANGES BUT THOUGHT US PROPOSALS TOO EXTENSIVE TO BE WITHIN DRAFTING COMMITTEE MANDATE TO WORK ON ALTERNATIVE B. UK SUGGESTED CONSIDERATION OF US PROPOSALS BE POSTPONED TO PERMIT TRANSLATION. CHAIRMAN SAHOVIC(YUGOSLAVIA) HOWEVER THOUGHT IT CRUCIAL TO COMPLETE FIRST READING OF
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PAGE 02 USUN N 04433 030254Z

ARTICLE 12 DURING MORNING MEETING. COMMITTEE THUS PRO-

CEDED PARA BY PARA THOROUGH ARTICLE 12, WITH US EXPLAINING CHANGES. MINOR STYLE REVISION OF PARA 2 ACCEPTED. NO DECISION TAKEN ON PARA 1 OR 3. BY AFTERNOON MEETING SECRETARIAT DOCUMENT APPEARED CONTAINING ALL PROPOSALS MADE DURING MORNING FIRST READING OF ARTICLE 12. IN EFFORT TO SHOW FLEXIBILITY, US LIMITED PROPOSALS CONTAINED THIS DOCUMENT TO TWO CHANGES TRANSMITTED PARA 6 BELOW. WE ANTICIPATE MATTER BE TAKEN UP AGAIN AT MEETING SAT, NOV3.

4. DURING AFTERNOON MEETING NOV2, DRAFTING COMMITTEE CONSIDERED ARTICLE2. TUNISIA MADE STRONG ARGUMENT FOR DELETION OF WORDS "REGARDLESS OF MOTIVE". DELETION WAS SUPPORTED BY UAE, MALI, AND FRANCE. DELETION WAS OPPOSED STRONGLY BY US, UK, SWEDEN, AND USSR. COLOMBIA ALSO OPPOSED DELETION. AT IMPASSE, COMMITTEE DECIDED THAT ISSUE OF DELETION WOULD HAVE TO BE REFERRED TO LEGAL COMMITTEE FOR DECISION (UNLESS COMPROMISE REACHED THROUGH CONSULTATIONS BY NOV 5 AND CHAIRMAN INFORMED TO THIS EFFECT).

5. COMMITTEE ALSO CONSIDERED REMAINDER OF ARTICLE 2. BASIS OF DISCUSSION WAS UK PROPOSED COMPROMISE CONTAINED PARA 1 OF USUN 4382. COMMITTEE ADOPTED PARA 2 OF ARTICLE 2 TO READ AS FOLLOWS: "EACH STATE PARTY SHALL MAKE THESE CRIMES PUNISHABLE BY APPROPRIATE PENALTIES WHICH TAKE INTO ACCOUNT THEIR GRAVE NATURE." COMMITTEE ALSO ADOPTED SUBPARAS (D) AND (E) OF PARA 1 OF ARTICLE 2 AS CONTAINED IN ILC TEXT WITHOUT CHANGE. SUBPARA (C) OF PARA 1 ADOPTED WITH RESERVATIONS. WITH REGARD TO SUBPARAS (A) AND (B) OF PARA 1, USSR CONTINUED TO INSIST ON ITS AMENDMENTS CONCERNING "DIGNITY". SERIES OF COMPROMISE PROPOSALS WERE MADE BY VARIOUS DELEGATIONS TO BRING NOTION OF "DIGNITY" INTO SUBPARA (A), BUT NONE OF THESE ACCEPTABLE TO WEO'S. CONSIDERATION OF THIS MATTER WILL CONTINUE NOV 3. COMMENT: AFTER MEETING, FEDOROV SAID SOVIETS STILL CONSIDERING PROPOSAL CONTAINED PARA 5 OF USUN 4409, BUT HAD NOT BEEN ABLE TO REACH DECISION IN TIME FOR DRAFTING COMMITTEE MEETING. PRIVATELY EXPRESSED PRELIMINARY REACTION CONTINUES TO BE FAVORABLE. DELOFF HAS SHOWN PROPOSAL TO OTHER WEO MEMBERS OF DRAFTING COMMITTEE AND NONE HAS FOUND ANY SUBSTANTIVE DIFFICULTY. END COMMENT.

6. BEGIN TEXT:

SUGGESTION FOR PARA 1 OF ARTICLE 12:
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PAGE 03 USUN N 04433 030254Z

1. IN THE FIRST SENTENCE REPLACE THE WORDS "CANNOT BE SETTLED THROUGH NEGOTIATION" BY THE WORDS "IS NOT SETTLED BY NEGOTIATION".

2. REPLACE THE SECOND SENTENCE BY THE FOLLOWING:

"THE REQUEST FOR ARBITRATION SHALL BE SUBMITTED TO ALL OTHER PARTIES TO THE DISPUTE BY GIVING WRITTEN NOTICE TO THE OTHER STATES OR STATES PARTY TO THE DISPUTE AND TO THE SECRETARY-GENERAL OF THE UNITED NATIONS. IF WITHIN

SIX MONTHS FROM THE DATE OF RECEIPT OF NOTICE BY THE
SECRETARY-GENERAL, THE PARTIES TO THE DISPUTE HAVE NOT
CONSENTED TO BE BOUND BY A COMPROMISE WHICH SPECIFIES AS
A MINIMUM THE SUBJECT MATTER OF THE DISPUTE AND THE METHOD
OF CONSTITUTING THE TRIBUNAL, OR IF A COMPROMISE IS CON-
CLUDED AND THE TRIBUNAL IS NOT CONSTITUTED WITHIN THE TIME
LIMIT SPECIFIED THEREIN OR, IF NO SUCH TIME LIMIT IS
SPECIFIED, WITHIN SIX MONTHS FROM THE ENTRY INTO FORCE
OF THE COMPROMISE, THE DISPUTE MAY BE BROUGHT BEFORE THE
INTERNATIONAL COURT OF JUSTICE BY THE APPLICATION OF ANY
PARTY TO THE DISPUTE." END TEXT.

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Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Drafter: n/a
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Executive Order: N/A
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